

## CODE OF ORDINANCES

### Chapter 1

#### GENERAL PROVISIONS

##### **Sec. 1-1. How Code designated and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Houston, Texas," and may be so cited.

(Code 1968, § 1-1)

**Charter references**—Printed ordinances as evidence, Art. IX, § 7; force and effect of codes of ordinances and admission thereof into evidence, Art. IX, § 13.

**Editor's note**—The city's Construction Code and Fire Code both constitute a part of this Code and each is adopted herein by reference. The said two portions of this Code are each published by separate promulgation and they are not set forth in this two-volume edition of the Code. Interested persons may contact the city secretary for purchase information.

##### **Sec. 1-2. Rules of construction and definitions.**

(a) In the construction of this Code, and of all ordinances, the following rules shall be observed and the following definitions shall apply, unless the context clearly indicates otherwise:

*Generally.* In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

*Building official* means the director of public works and engineering or such other person as the said director may designate to act as the chief construction code enforcement official of the city and the said official's designees. The term relates primarily to those public works and engineering department employees who

are engaged in the administration and enforcement of the City of Houston Construction Code and related laws.

*City.* The words "city" "the city" or "this city" shall mean the City of Houston, in the State of Texas.

*City council.* Whenever the words "city council" or "council" are used, they shall be construed to mean the city council of the City of Houston, as the governing body of the city.

*City engineer* shall mean the director of public works and engineering or the director or engineer designated by the director of the building services department and their designees, as applicable. The term primarily relates to employees of the public works and engineering and building services departments who are engaged in acquisition, design and construction of public works and related projects.

*City officers or departments.* Whenever reference is made to an officer or department, the same shall be construed as if followed by the words "of the City of Houston, Texas."

*Computation of time.* Except as otherwise provided in this Code, or in applicable statutes of the state, whenever a notice is required to be given or an act to be done a certain length of time before any proceedings shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceedings are to be had shall be counted, unless it is a Sunday or a legal holiday on which city offices are closed, in which event the period runs until the end of the next day which is neither a Sunday nor a legal holiday.

*Construction Code* means the City of Houston Construction Code as amended from time

to time by the city council, which code consists of various texts setting forth requirements relating to building construction and safety. In particular instances this Code may refer to individual portions of the Construction Code, such as the Building Code, the Plumbing Code, the Electrical Code, or the Mechanical Code, and any such specific reference shall be construed to mean the identified portion of the Construction Code. Although they do not constitute a part of the Construction Code for other purposes, the International Residential Code and the International Energy Conservation Code, both as adopted by state law and amended by the city, shall be considered to be included within the term "Construction Code."

*County.* The words "the county" or "this county" shall mean and refer to Harris, Fort Bend, and Montgomery Counties, either singularly or collectively, whichever is applicable when taken in context.

*Fire Code* means the Fire Code of the City of Houston, as amended from time to time by the city council.

*Gender.* Words imparting masculine gender, whenever used herein, shall be deemed to include the feminine and shall also extend and apply to persons as the term "person" is herein defined. The use of words imparting masculine gender shall not be deemed to imply any preference for them or any subordination, disqualification or exclusion of the feminine.

*Director of the health department.* The term "director of the health department" shall refer only to such person; such term shall not be deemed to include such officer's designees, or to authorize such officer to delegate any authority or duty vested in him as director of the health department, unless the intention to include such designees, or to authorize such delegation, is clearly expressed.

*Health officer.* The term "health officer" shall mean the director of the health department or such person's duly authorized designees.

*Housing officer.* The term "housing officer" shall mean the director of the housing and community development department or the director's duly authorized designees.

*Judge or municipal judge.* The words "judge" or "municipal judge" or any like term shall be construed to mean a judge (or an acting judge) of a municipal court of the City of Houston.

*Major collector street* shall mean a public street that is not a thoroughfare, but that provides access and circulation between thoroughfares and other streets and is so designated on the major thoroughfare and freeway plan.

*Major thoroughfare* shall mean a public street designated as a principal thoroughfare or thoroughfare on the major thoroughfare and freeway plan.

*Major thoroughfare and freeway plan* shall mean the latest edition of the major thoroughfare and freeway plan adopted by the planning commission and approved by the city council.

*May.* The word "may" is permissive.

*Must.* The word "must" is mandatory.

*Neighborhood protection official* shall mean the chief of police or such other person as the chief of police may designate to act as the official primarily responsible for the enforcement of chapter 10 of this Code and related laws and the said official's designees.

*Nontechnical and technical words.* Words and phrases shall be construed according to the common and approved usage of the language; provided, however, that technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

*Number.* A word imparting the singular number only may extend and be applied to several persons and things as well as to one person and thing.

*Oath.* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

*Or, and.* "Or" may be read "and" and "and" may be read "or" if the sense requires it.

**Owner.** The word "owner" applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

**Person.** The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships, and bodies politic and corporate as well as to individuals or groups of individuals.

**Personal property** includes every species of property except real property.

**Planning official** shall mean the director of planning and development and the director's designees.

**Shall.** The word "shall" is mandatory.

**Signature or subscription.** The words "signature" or "subscription" shall include the mark of a person unable to write, witnessed by two witnesses unless otherwise expressly provided.

**State.** The words "the state" or "this state" or "state" shall refer to the State of Texas.

**Street.** The word "street" shall be construed to embrace streets, avenues, boulevards, drives, roads, alleys, lanes, viaducts and all other public highways in the city.

**Tense.** Words used in the present or past tense include the future as well as the present or past.

**Traffic engineer** shall mean the person designated under subsection (a) of section 45-5 of this Code.

**\*Utility official** shall mean the director of public works and engineering and the director's designees. The term primarily relates to those public works and engineering department employees who are engaged in activities relating to the delivery of water and wastewater services.

**\*Note**—On October 8, 2003, City Council adopted Ordinance 2003-925, establishing drainage utility service charges for property in the City. The City received a referendum petition under Article VII-b of the Charter regarding Ordinance 2003-

925. On December 23, 2003, rather than calling an election, City Council adopted Ordinance No. 2003-1196, which completely repealed Ordinance No. 2003-925.

**Writing.** The words "write" and "written" shall include printing.

**Year, month.** The word "year" shall be construed to mean a calendar year, and the word "month" shall be construed to mean a calendar month.

(b) The provisions of Titles 1, 2 and 3 of the Penal Code shall apply in the interpretation of all penal provisions of this Code to the extent that the Penal Code mandates that they shall apply. (Code 1968, § 1-2; Ord. No. 72-201, § 1, 2-2-72; Ord. No. 89-1079, § 2, 7-12-89; Ord. No. 90-635, §§ 1—3, 5-23-90; Ord. No. 93-514, §§ 1, 2, 5-5-93; Ord. No. 94-674, § 2, 7-6-94; Ord. No. 98-334, § 1, 4-29-98; Ord. No. 98-613, § 9, 8-5-98; Ord. No. 99-378, § 1, 4-21-99; Ord. No. 02-399, § 11, 5-15-02; Ord. No. 02-528, § 14a., 6-19-02; Ord. No. 03-925, § 2, 10-8-03; Ord. No. 03-1196, § 2, 12-23-03; Ord. No. 04-1015, § 5, 9-27-04; Ord. No. 04-1075, § 1, 10-20-04)

### Sec. 1-3. Catchlines.

(a) The catchlines of the several sections or subsections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be the titles of such sections or subsections, nor as any part thereof, nor shall they be so deemed when any of such sections or subsections, including the catchlines, are amended or reenacted, unless expressly so provided.

(b) The city has granted general discretion to Municipal Code Corporation as editor of this Code to include source references, editor's notes, charter references, internal cross references and similar notations throughout this Code. Such notations are intended for the convenience of the public in the use of this Code. The city has not reviewed the same and makes no representation as to their accuracy. Such notations do not constitute a part of this Code and shall have no legal effect upon its interpretation or enforcement. (Code 1968, § 1-3)

**Sec. 1-4. Amendments to Code.**

All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of the repeal of any chapter, section and subsection or any part thereof by subsequent ordinance, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.

Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows: . . . ." The amended provisions shall then be set out in full as desired.

In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Houston, Texas, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: . . . ." The new section shall then be set out in full as desired. (Code 1968, § 1-4)

**Sec. 1-5. Effect of repeal of ordinances.**

The repeal of any prior ordinance of the city by any subsequent ordinance shall not operate to revive the provisions of any ordinance which may have been repealed by such prior ordinance, unless such revival shall be expressly provided for. Ordinances repealed remain in force for the trial and punishment of all past violations of them, and for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and remedies existing by them and so far as they apply, to any office, trust, proceeding, right, contract or event, already affected by them. (Code 1968, § 1-5)

**Sec. 1-6. General penalty; continuing violations; license revocation, etc.**

(a) When in this Code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or

wherever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not exceeding \$500.00; provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

(b) The suspension, revocation, cancellation or denial of any license, permit or certificate by the city shall not prohibit the imposition of any civil or criminal penalty. The imposition of a civil or criminal penalty by the city shall not prohibit the suspension, revocation, cancellation or denial of any license, permit or certificate.

(Code 1968, § 1-7; Ord. No. 92-1449, § 2, 11-4-92)

**Charter reference**—Penalties for ordinance violations, Art. II, § 12.

**Cross references**—Application of state law to judgments, executions and fine collections, § 16-75; assessment of fines against corporations, 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

**Sec. 1-7. Aiding or abetting violations.**

The prohibition of any act in this Code, and in any rule or regulation adopted hereunder, shall include the causing, securing, aiding, or abetting of another person to do such act. (Code 1968, § 1-8)

**Sec. 1-8. Severability of parts of Code.**

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1968, § 1-10)

**Sec. 1-9. Procedures for denial, suspension or revocation of licenses and permits—Generally.**

No permit or license authorizing a person to engage in a trade, occupation, vocation, profes-

sion or business, shall be denied, suspended or revoked on the grounds that the applicant, permittee, or licensee has been convicted of a criminal offense except under the following procedures:

- (a) An applicant for a license or permit or for the renewal of a license or permit shall be given written notice informing him of the following matters:
  - (1) That the city has information that the applicant has been convicted of certain offenses, and a list of the specific offenses for which the city has such information.
  - (2) That the application cannot be considered unless the applicant provides the city with evidence concerning each of the matters set out in section 4(c) of article 6252-13c of the Texas Revised Civil Statutes within 30 days of the date of the notice. The applicant shall be informed that such evidence shall be in the form of sworn affidavits which must state that the affiant has personal knowledge of the facts set forth in the affidavit and state the basis of that personal knowledge, except where article 6252-13c specifies that certain letters of recommendation shall be considered.

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If the applicant does not provide the city with the information required in the notice within 30 days of the date of the notice, the application shall be rejected for failure to complete the application process; provided, however, applicants for taxicab permits shall provide the director of public service with the information required in the notice at least ten days prior to the date on which the hearing is to be held on the request for the permit.

If the applicant provides the city with evidence as specified above, the applicant shall be given notice that a hearing will be held on his application. Such notice shall specify the date, time and place that the hearing will be held.

- (b) If the city desires to revoke or suspend a permit or license on the grounds that the permittee or licensee has been convicted of a criminal offense, the city shall give the applicant written notice informing him of the following matters:

- (1) That the city is seeking to revoke or suspend his license or permit on the grounds of a criminal conviction or convictions.
- (2) The specific conviction or convictions upon which the city intends to rely in seeking revocation or suspension of the permit or license.
- (3) That a hearing will be held on the city's request for revocation or suspension of the permit or license and the date, time and place of the hearing.
- (4) That he may appear at the hearing, give testimony and examine witnesses.
- (5) That the licensee or permittee shall have the burden to present evidence concerning each of the matters set out in section 4(c) of article 6252-13c.

- (c) All hearings held in connection with the denial of an application or revocation or suspension of a permit or license to en-

gage in a trade, occupation, profession, vocation or business, shall be conducted by the director of the department which issues such permits or licenses, or a person designated by the director to conduct such hearings; provided, however, all hearings on licenses or permits issued by any board whose members are appointed by the mayor shall be conducted by the board which issues the license or permit.

All such hearings shall be conducted under rules consistent with the nature of the proceedings.

If the hearing is on an application for an initial license or permit or an application to renew a license or permit, and the applicant fails to appear at the hearing, the application shall be rejected and the permit or license denied on the basis of the applicant's failure to appear.

If the hearing is on a request by the city to revoke or suspend a permit or license on the grounds that the licensee or permittee has been convicted of a criminal offense and the applicant does not appear, the city shall introduce sufficient evidence to establish a prima facie case showing grounds for revocation.

If the hearing official finds that the applicant, permittee or licensee was convicted of an offense that is grounds for denial, revocation or suspension of the license or permit under the ordinances of the city, the hearing official shall deny, revoke or suspend the license or permit unless he finds that the license or permit should be granted pursuant to article 6252-13c of the Texas Civil Statutes Annotated.

The hearing official shall give written notice to the applicant, licensee or permittee of his findings as to whether the license or permit should or should not be denied, revoked or suspended, and the reasons therefor.

If the hearing official finds that the permit or license should be denied, revoked or suspended on the basis of one or more criminal convictions, he shall also inform

the applicant, permittee or licensee of his right to file an action in the district court in Harris County for review of the evidence presented to the licensing authority and its decision within 30 days after the date the decision was rendered by the hearing official.

- (d) There shall be no appeal to city council from the decision of a hearing official on the denial, revocation or suspension of a permit or license on the grounds of a criminal conviction.
- (e) All notices required under this section shall be given by hand delivery or sent by certified mail, return receipt requested, to the applicant, licensee or permittee at the address set out in his application; provided, however, that the notice required in subsection 1-9(a) may be served by regular first class mail.
- (f) Proceedings relating to licenses and permits issued under article III of chapter 8 of this Code shall additionally be governed by the procedures established in division 4 thereof. To the extent of any conflict, the provisions of chapter 8 shall control over this section.

(Code 1968, § 1-11; Ord. No. 82-303, § 1, 2-23-82; Ord. No. 97-129, § 2, 1-29-97)

#### **Sec. 1-10. Same—Specific permits and licenses.**

(a) Except as provided in the succeeding sentence applicable to the license enumerated in subsection (2) of this section, the licenses and permits enumerated in this subsection shall be denied if the applicant (i) has been convicted of any of the designated offenses within the seven-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the seven-year period immediately preceding the date of filing of the application for such a conviction, or (ii) is subject to deferred adjudication in connection with any of the above offenses. As to the license listed in subsection (2) of this section, the seven-year limitation shall not apply to any felony conviction for any sexual offense or offense involving violence, including,

but not limited to, murder. Additionally, the following licenses and permits shall be subject to denial, revocation, or refusal for renewal, as applicable, if the licensee or permittee has been convicted of any of the designated offenses since the application was filed. Provided, however, no such license or permit shall be denied, revoked, or refused for renewal if the conviction was set aside as invalid or if it is found that the license or permit should not be denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code:

- (1) All licenses issued pursuant to article II of chapter 8 of this Code:
  - a. Any violation of the ordinances or statutes regulating the sale, trade, servicing, storage, handling, dismantling, or destruction of any motor vehicle or motor vehicle parts, accessories, or supplies.
  - b. Any violation of the ordinances or statutes regulating the business of selling, trading, storing, dismantling or destruction of motor vehicles or motor vehicle parts, accessories, or supplies.
  - c. Any offense involving fraud or misrepresentation.
  - d. Any offense involving theft, robbery, or burglary.
  - e. Any offense involving bribery or perjury.
  - f. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas.
  - g. Any felony conviction for any violation of any state or federal laws regulating firearms.

The above listed offenses shall be grounds for denial, revocation, or refusal for renewal of the licenses issued pursuant to article II of chapter 8 as all licenses issued under that article allow persons to engage in businesses connected with the sale,

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trade, servicing, storage, handling, dismantling, or destruction of motor vehicles or motor vehicle parts, accessories or supplies and city council finds that persons engaged in such businesses have special opportunities to engage in the offenses listed above due to the nature of the businesses and the lack of relevant technical knowledge on the part of many of those persons who deal with such businesses.

(2) Wrecker driver licenses issued pursuant to subdivision B of division 2 of article III of chapter 8 of this Code:

- a. Any violation of the ordinances or statutes regulating the sale, trade, servicing, storage, handling, dismantling, or destruction of any motor vehicle or motor vehicle parts, accessories, or supplies.
- b. Any offense involving fraud or misrepresentation.
- c. Any offense involving felony theft, robbery, or burglary.
- d. Any offense involving bribery or perjury.
- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas.
- f. Any felony conviction for any violation of any state or federal laws regulating firearms.
- g. Any offense involving forgery.
- h. Any offense involving the theft or unauthorized use of a motor vehicle.
- i. Any offense involving prostitution or the promotion of prostitution.
- j. Any offense involving rape, sexual abuse, sexual assault, enticing of a child, rape of a child, sexual abuse of a child or indecency with a child.
- k. Any offense involving the felony possession or delivery of drugs.

- l. Four or more moving violations of the traffic laws of this state or any other state, each of which arises from a separate incident, occurring within any 12 month period during the three years immediately preceding the application for a license or of the notice of a hearing for revocation of a license.

- m. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

The above listed offenses shall be grounds for denial, revocation, or refusal for renewal of a wrecker driver license issued pursuant to subdivision B of division 2 of article III of chapter 8 as that license allows persons to engage in an occupation in which there is a high degree of danger to the public through the involuntary towing and storage of automobiles, and city council finds that such activities involve substantial contact with the public including contact with persons whose vehicles may have become disabled at all hours of day and night and in remote locations. This occupation also affords special opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by such offenses.

Provided, however, no such license or permit shall be denied, revoked or refused for renewal if any conviction was set aside as invalid or if it is found that the license should not be revoked, denied or refused for renewal under chapter 53 of the Texas Occupations Code.

Additional provisions relating to the revocation, suspension, and refusal to renew wrecker driver licenses are established in article III of chapter 8 of this Code. The applicable provisions of chapter 8 are cumulative of



the provisions of this section and shall also constitute grounds for the revocation, suspension or refusal to renew a wrecker driver license.

- (3) Licenses issued pursuant to section 5-171 of this Code authorizing a person to operate, use or maintain any room or place where persons are permitted to play at any game of dominoes, cards or other games:

Any offense involving gambling or possession of gambling paraphernalia.

Offenses involving gambling and the possession of gambling paraphernalia shall be grounds for denial, revocation or refusal for renewal of such licenses because these businesses offer special opportunities for gambling activities.

- (4) Licenses issued pursuant to the Fire Code of the city:

- a. All permits relating to explosives as required under the Fire Code: any offense involving arson or intoxication.
- b. All permits relating to flammable liquids as required the Fire Code: any offense involving arson or intoxication.
- c. All permits for a public fireworks display as required under the Fire Code: any offense involving arson or intoxication.
- d. All permits for open burning as required under the Fire Code: all offenses involving arson.

The above listed offenses shall be grounds for denial, revocation, or refusal for renewal of the above listed Fire Code permits as city council finds that these permits authorize persons to handle substances that can cause substantial injury to persons or destruction of property through the willful or careless action of the permittee.

- (5) Licenses issued pursuant to chapter 46 of this Code for school vehicle operators, chauffeured limousine service operators and drivers, taxicab drivers, and jitney drivers, and permits issued for taxicabs and jitneys and franchises issued pursuant to uncodified ordinances for school bus operators:

- a. Any offense involving fraud or theft;
- b. Any offense involving forgery;
- c. Any offense involving the unauthorized use of a motor vehicle;
- d. Any violation of state or federal laws regulating firearms;
- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas;
- f. Any offense involving prostitution or the promotion of prostitution;
- g. Any offense involving rape, sexual abuse, sexual assault, rape of a child, sexual abuse of a child or indecency with a child;
- h. Any offense involving the use of or sale of drugs;

In addition to the offenses listed above, the following shall apply to franchises for school bus operators and licenses for school vehicle operators, taxicab drivers, jitney drivers and chauffeured limousine drivers:

- i. Three or more moving violations of the traffic laws of this state or any other state if such violations occurred within the year immediately preceding the application for a franchise or license or of the notice of a hearing for revocation of a franchise or license.

In addition to the offenses listed above, the following shall apply to franchises for school bus operators

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and licenses for school vehicle operators, limousine drivers, taxicab drivers, and jitney drivers;

- j. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

Each of the foregoing provisions of this item (4) shall also be applicable to persons proposed to be listed as drivers by school vehicle licensees and applicants and school bus franchisees and applicants.

The above listed offenses shall be grounds for denial, revocation or refusal for renewal of the above listed licenses, permits, franchises, and listings of drivers authorized thereunder as they allow persons to engage in businesses and occupations in which there is a high degree of personal contact with and danger to the public and a serious need to protect the members of the public utilizing public transportation services from the type of criminal conduct represented by such offenses.

(b) The authorizations enumerated in this subsection shall be denied if the applicant has been convicted of any of the designated offenses within the five-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the five-year period immediately preceding the date of the filing of the application for such a conviction. Additionally the following authorizations shall be subject to denial, revocation, or refusal for renewal, as applicable, if the holder has been convicted of any of the designated offenses since the application was filed. Provided however, no such authorization shall be denied, revoked or refused for renewal if the conviction was set aside as invalid or if it is found that the authorization should not be denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code:

- (1) Authorizations for private storage lots issued pursuant to chapter 8, article III, division 3 of this Code:

- a. Any offense involving fraud or theft;

- b. Any offense involving the unauthorized use of a motor vehicle;
- c. Any offense involving forgery;
- d. Any violation of state or federal laws regulating firearms;
- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of the state;
- f. Any offense involving the possession, use of or sale of drugs except for conduct that is classified as no greater than a Class C misdemeanor under the laws of this state;
- g. Any offense involving prostitution or the promotion of prostitution;
- h. Any offense involving rape, sexual abuse, sexual assault, rape of a child, sexual abuse of a child or indecency with a child; or
- i. Any violation of state laws relating to the operation of motor vehicle storage lots.

The above listed offenses shall be grounds for the denial, revocation or nonrenewal of authorizations issued under division 3, article III of chapter 8, as enumerated, because the authorizations thereunder allow persons to engage in businesses and occupations in which there is a high degree of danger to the public through the voluntary or involuntary storage of automobiles. Such activities involve substantial contact with the public including contact with persons whose vehicles have become disabled at all hours of day and night. These businesses also afford special opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by such offenses.

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(2) Permits for sexually oriented business enterprise entertainers and managers issued pursuant to article VIII of chapter 28 of this Code:

a. Any of the following offenses as described in chapter 43 of the Texas Penal Code:

- (i) Prostitution;
- (ii) Promotion of prostitution;
- (iii) Aggravated promotion of prostitution;
- (iv) Compelling prostitution;
- (v) Obscenity;
- (vi) Sale, distribution or display of harmful material to a minor;
- (vii) Sexual performance by a child;
- (viii) Employment harmful to children; or
- (ix) Possession or promotion of child pornography;

b. Any of the following offenses as described in chapter 21 of the Texas Penal Code:

- (i) Public lewdness;
- (ii) Indecent exposure; or
- (iii) Indecency with a child;

c. Sexual assault or aggravated sexual assault as described in chapter 22 of the Texas Penal Code;

d. Harboring a runaway child as described in chapter 25 of the Texas Penal Code;

e. Criminal attempt, conspiracy or solicitation to commit any of the above offenses; or

f. Any violation of article VIII of chapter 28 of this Code.

The above-listed offenses shall be grounds for the denial, revocation or refusal for renewal of a permit under article VIII of chapter 28 of this Code because persons who hold that permit are employed by sexually oriented businesses where there is a high degree of opportunity for unlawful sexual conduct or the solicitation

thereof, lewd conduct, obscenity offenses, and conduct harmful to minors. Therefore, the enumerated offenses are directly related to the duties and responsibilities authorized by the subject permit. There is a serious need to protect members of the public and fellow employees of sexually oriented business enterprises from persons who have the foregoing criminal histories.

(3) All certificates, licenses, permits, registrations, and other authorizations issued pursuant to chapter 47, article XI of this Code:

a. Any offense involving violation of federal, state and local litter, special waste and hazardous waste laws including, without limitation, those relating to permitting of transporters and biological pretreatment.

b. Any offense involving fraud or misrepresentation.

c. Any offense involving forgery.

The above listed offenses shall be grounds for the denial, revocation or refusal to renew certificates, licenses, permits, registrations and other authorizations pursuant to chapter 47, article XI of this Code because the holders thereof engage in activities where there is a high degree of opportunity for the unlawful handling or disposition of waste materials or the alteration or fabrication of records relating thereto.

(4) Permits for valet parking services issued pursuant to chapter 46, article VII, division 2 of this Code:

a. Any offense involving burglary, fraud or theft;

b. Any offense involving the unauthorized use of a motor vehicle;

c. Any offense involving forgery;

d. Any violation of state or federal laws regulating firearms;

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- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of the state;
- f. Any offense involving the possession, use of or sale of drugs except for conduct that is classified as no greater than a Class C misdemeanor under the laws of this state;
- g. Any violation of state laws relating to the operation of motor vehicle storage lots.
- h. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

The above listed offenses shall be grounds for the denial, revocation or nonrenewal of permits issued under division 2, article VII of chapter 46, as enumerated, because the authorizations thereunder allow persons to engage in businesses and occupations in which there is a high degree of danger to the public through the operation of automobiles. Such activities involve substantial contact with the public, including assuming possession of automobiles owned by members of the public. These businesses also afford special opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by such offenses.

(c) This section shall not limit the right of the city to deny, revoke or refuse to renew any license or permit on any grounds set out in the ordinance relating to such license or permit except insofar as such license or permit is denied or revoked on the basis of a criminal conviction.

(d) In any prosecution under this section, the provisions of subsections (b), (c), (f), (g), and (h) of this section shall be regarded as defenses.

(Ord. No. 85-2121, §§ 2, 3, 12-10-85; Ord. No. 90-14, § 6, 1-10-90; Ord. No. 90-253, § 1, 2-28-90; Ord. No. 92-1093, § 26, 8-12-92; Ord. No. 95-613,

§ 2, 6-14-95; Ord. No. 97-75, § 5, 1-15-97; Ord. No. 97-196, § 2, 2-19-97; Ord. No. 99-1331, § 2, 12-15-99; Ord. No. 00-960, § 1, 11-1-00; Ord. No. 01-1079, § 2, 12-5-01; Ord. No. 03-703, § 4, 7-30-03; Ord. No. 03-1046, § 1, 11-12-03; Ord. No. 03-1319, § 2, 12-23-03; Ord. No. 03-1324, § 1, 12-23-03; Ord. No. 05-116, §§ 2, 3, 2-9-05)

**Sec. 1-11. Affidavit for permits, licenses, etc.**

(a) A license, permit or certificate issued pursuant to this Code or any other code or ordinance of the city authorizing a person or persons to engage in a business, do anything, or for any other purpose whatsoever, shall not be issued unless the applicant for the permit, license, or certificate submits the following affidavit, acknowledging responsibility to comply with all deed restrictions and laws, regulations and ordinances, in connection with the requested permit, license, or certificate:

THE STATE OF TEXAS

§ Deed Restriction  
§ and Law Com-  
pliance  
§ Affidavit

COUNTY OF HARRIS

Before me the undersigned authority on this day personally appeared \_\_\_\_\_

(type or legibly print name of affiant) who being first duly sworn by me depose and said:

I understand and agree that it is my responsibility to comply with all deed restrictions and city, state, and federal laws, regulations or ordinances concerning any activity authorized by the license, permit or certificate, requested in the application to which this affidavit appertains and concerning any land or place where such activities may be conducted.

I also understand and agree that the City of Houston, by issuing the license, permit or certificate for which I am applying, does not excuse or approve of any violation of deed restrictions, or of city, state or federal laws, regula-

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tions or ordinances and that the license, permit or certificate will be void in the event that it is issued in violation thereof.

I fully understand that if the permit, license or certificate for which I am applying is issued, the City of Houston or any other ap-

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propriate entity may institute legal proceedings against me if I violate any deed restriction, or any city, state or federal law, regulation or ordinance.

To the extent that this affidavit is made on behalf of a corporation or for the benefit of any persons other than myself I certify that I have fully advised them of the content of this affidavit and that I am duly authorized to execute the same as the act and deed of the applicant or persons.

To certify which, witness my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary public in and for  
the State of Texas

My Commission expires:

(b) Each city permit, license or certificate shall include the following statement in a conspicuous place:

The issuance of this permit, license or certificate does not constitute approval by the City of Houston for the violation of any deed restriction, or any city, state and federal laws, regulations, or ordinances. Each holder and other person acting under the authority of this permit, license or certificate is personally responsible for complying with deed restrictions and city, state and federal laws relating to the activity contemplated by this permit, license or certificate.

(c) The provisions of this section are applicable to original applications and renewal applications for permits, licenses and certificates. This section shall apply to all city permits, licenses or certificates issued pursuant to any ordinance except:

- (1) Building permits for which an affidavit is required by section 10-3 of this Code;

- (2) Certificates of occupancy for which an affidavit is required under section 10-3.1 of this Code;
- (3) Modular home placement permits for which an affidavit is required under section 10-247 of this Code; and
- (4) Manufactured home permits for which an affidavit is required under section 29-6 of this Code.

(Ord. No. 89-714, § 1, 5-17-89; Ord. No. 94-1268, § 4, 11-22-94; oRD. nO. 05-91, § 1, 1-25-05)

**Sec. 1-12. Late renewals of permits.**

(a) In this section the following words shall have the meanings ascribed to them in this subsection unless the context of their usage clearly indicates another meaning:

*Director* means the department director of the city department that is responsible for the processing of the renewal of a permit.

*Permit* means a license, certificate, approval, registration, consent, permit or any other form of authorization required by law, regulation or ordinance for the operation of any business activity that is issued by any department of the city.

(b) Notwithstanding any other provision of law, a director shall accept and process a late filed application for the renewal of a permit if the application is filed or tendered for filing within the 30 day period following the last day otherwise authorized by law for filing of the renewal application and if the applicant demonstrates that the failure to timely file was based upon an error or misunderstanding and was not the result of a conscious indifference to the requirements for renewal.

(c) The provisions of this section shall not be construed to excuse compliance with any applicable requirement other than the filing date for a permit renewal, and the applicant shall be required to demonstrate compliance with all other requirements for renewal of the permit. A permit renewal issued under this section shall not be retroactive for the conduct of any business activity during the period of any lapse prior to the issuance of the renewal, and this section shall not

be construed to excuse the conduct of any business activity without a current and valid permit.

(d) The refusal of a director to accept or process the filing of a late filed permit renewal application under this section shall be subject to appeal in the same manner provided by the law governing issuance of the permit.

(e) The provisions of this section shall not apply in any instance where the late filing or processing of the permit is prohibited by a state or federal law or regulation that supersedes the operation of this section.

(f) To the extent that any law regarding the issuance of a permit conditions the issuance of the permit upon the existence or nonexistence of another permit for a premises conducting the same or another activity within a specified proximity, a lapsed permit shall be considered to still exist during the grace period authorized under this section and until the resolution of any late renewal application that is filed under this section for the limited purpose of determining the existence of other permit holders in the processing of any application for an original permit.

(Ord. No. 95-868, § 1, 8-9-95)